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This practice of having official witnesses to every contract, and summoning them to give evidence should a dispute later arise, is one of the most important means of maintaining order in Nyakyusa society, and village neighbours are the usual witnesses.

c. Communal responsibility of the age-village

Formerly, in Nyakyusa law two forms of group responsibility were emphasized: the mutual responsibility of kinsmen, and the mutual responsibility of fellow villagers. A case of murder or manslaughter was primarily the concern of the agnatic lineage if the victim was a male or an unmarried girl, and of the lineages of both husband and father if the victim was a married woman. The kinsmen either killed the murderer, or brought him before the chief, who imposed a fine which went to the injured relatives. The Nyakyusa make a distinction between 'spearing by day' (direct physical injury) and 'spearing by night' (witchcraft); and only in the latter type of case did the fine go to the chief. Witchcraft was thus treated as an offence against the state—the chiefdom—while murder or manslaughter was an offence against the kinsmen of the dead. The concern of the state in witchcraft, and the joint responsibility of kinsmen on the one hand, and of fellow villagers on the other, was evident when, as sometimes happened, both groups were required by the chief to clear themselves of suspicion of witchcraft by each providing a representative to take the poison ordeal. Should the representative of either group fail to vomit then the responsible individual within that group was sought out by means of divination and the ordeal (*vide supra*, p. 116).

In a case of adultery the injured husband, together with his kinsmen, pursued and attempted to kill, or torture and kill, the adulterer: self-help was not only permitted but expected in this situation,[1] and a man's near kinsmen were obliged to assist him. Neighbours were not obliged to assist in executing vengeance, but they might be victims of it, for if the injured husband did not find the adulterer he might kill any village-mate of his enemy. Such an attack commonly led to war between the two villages;

[1] D. R. MacKenzie, *The Spirit-Ridden Konde* (1925), p. 61, says: 'The injured husband has the right to inflict death on the paramour. This is no mere tale of the past but a grim fact to-day . . . cases of this nature are very numerous.'

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and some informants suggested that it only occurred between the villages of different chiefs, though others insisted that it did occur between villages of the same chiefdom. Indeed any seduction of a woman of another village was liable to lead to war. A man of Bulindanajo seduced the wife of the headman of Bujege, Mwansambe. The men of Bulindanajo returned the woman to her husband, saying to their fellow: 'The men of Bujege are fearsome (*basisya*), it's a village of fathers, she's your mother' (cf. Document p. 181). But Mwansambe was angry and made war. The men of Bulindanajo protested, saying: 'We brought the woman back!' but he took no notice and attacked them. He was defeated, and fled.

A thief or an obstinate debtor was also a danger to his neighbours. For a victim or creditor living in another chiefdom, and so unable to obtain satisfaction in a chief's court—since a chief paid little attention to a complainant who was not his own man—might seize the wife of any village-mate of the man who had his property. Hence, the old men say, thieves and adulterers were liable to be banished from a village[1] just like witches and sorcerers, for they too brought misfortune on their fellows.

War between villages was apparently the usual upshot of an attack on the village neighbour of an enemy, but occasionally a settlement was arranged between the two villages concerned, and the adulterer or thief was held responsible for compensating his injured neighbour, or the latter's kinsmen. Kalunda and Mwalubunju explained: 'In the old days if a man ran off with my wife I should go and kill a village-mate of his. That meant, "Go, you villagers and look for my wife." Yes, this happened even in a village of my own chief. Then the villagers would go and look for my wife and when they found her with their neighbour they would bring her back to me with a spear or hoe as compensation. The man they would accuse, saying: "It was you who killed your fellow", so that he would have to make peace with the family of the dead man, not I. He would give them a daughter of his own to wife, or else pay ten cows, and they would be relatives then. Yes, ten cows they paid for a man's death, though only two for a woman in marriage.' Here the differing responsibilities of kinsmen and fellow villagers are evident.

The village was a fighting unit taking up quarrels on its own

[1] A cattle thief caught in the act was speared. . . . MacKenzie, op. cit., p. 86.

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account with other villages of the same chiefdom, and forming a detachment under its own headman in the army of the chiefdom. Before an attack each village was harangued by its headman who urged: 'Keep all your spears together. If you abandon your fellow you have a case against you! All return together!' And, as we have seen, it was held that men of the same village should stand shoulder to shoulder in war and in a hunt, that they might be brave.

Cattle raids and adultery cases were the prime causes of war—fighting commonly began with a dispute over a woman, or lust for meat. Less frequently it was a quarrel between two villages or two chiefdoms over a boundary that led to war. Hostilities often flared up at a funeral when men danced the war dance with spears (*ukukina*). The Nyakyusa interpret this dancing at funerals as an expression of anger at death, a protest against death.[1] 'Formerly we protested against death, we said: "Our fellow has died, *aje!* Let us put our friend to rest!" We protested with war, we protested with spears, and people died.' Or as another informant put it, 'The war dance is a way of weeping. We dance the war dance because war is in our hearts.' But the anger at death very easily merged into anger against human enemies. 'If the men of two chiefdoms or two villages were present at a burial they would quarrel and fight. The fight began when one hurled his spear into the ground and thus spewed the earth over someone else. Perhaps there would be only a few dancing at first and many sitting down, but when a neighbouring chief was seen approaching with his men, and the sound of the trumpets was heard, those already there would say: "If we sit still they will say there are no men but only women at this funeral. Let us dance too." So they would all get up and dance, and if the others did anything there would be war. Now the custom of the war dance is dying out. We chiefs control it, and when another chief comes to a funeral we tell all our men to sit down while he and his men dance at the grave, because if we do not, the war of old times is liable to break out.'

In fact peace has been effectively enforced among the Nyakyusa.[2] We neither saw nor heard of a fight in the three years we were there. Thus mutual dependence in war is no longer a strong sanction for village unity. The joint responsibility for certain

[1] cf. Godfrey Wilson, 'Nyakyusa Conventions of Burial', *Bantu Studies*, Vol. XIII (1939).

[2] A contrast to Pondoland or Zululand.

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torts committed by its members has also disappeared. Instead, there is both a great increase in the number of cases treated as offences against the state; murder, manslaughter and grievous bodily injury being no longer treated as offences against a group of kin, but as crimes against the state; and a great extension in the *range* of law. A modern Nyakyusa has no difficulty in suing a debtor, or the seducer of his wife, living in another chiefdom.

Nevertheless neighbours still feel a certain obligation for the maintenance of each other's rights. For example, a certain young man eloped with a very young girl, who, though betrothed, had not yet reached puberty. On their way out of the district they were seen by a 'village father' of the girl, who brought them back to her father, and then joined with him and other neighbours in beating the young man and taking him to the chief. The youth admitted his fault in seducing so young a girl and asked the chief to summon his father-in-law (for he was already married) that he might borrow from his father-in-law the cattle with which to pay the fine for seduction. But his father-in-law was a neighbour of the father of the girl he had seduced, and he refused to lend any cattle, saying, 'You have run off with the daughter of my neighbour in the village: that means you have wronged *me*.'

And a group of herd-boys are still liable to be treated by their fathers as responsible for one another. One informant, discussing a case of bestiality committed by a herd-boy, remarked that the leader of the group forbade the others to mention it at home on the ground that 'if our fathers know they will say that we all (in this herd group) do it.'

d. Social separation

One of the mechanisms for maintaining good relations in Nyakyusa villages (as in all groups) is the separation of the dissident individual from the group.[1] This separation may be compulsory or voluntary. As we have seen, witches, thieves, adulterers, and obstinate debtors were formerly banished from Nyakyusa villages because they were regarded as a danger to their neighbours, liable to harm them directly or to bring retribution upon them. The village, being held responsible for certain actions of its members, and forming a defensive unit against the sup-

[1] cf. G. and M. Wilson, *The Analysis of Social Change*, pp. 60–1.

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35. JOINT RESPONSIBILITY OF NEIGHBOURS

Mwaikambo (*clerk*).

624 621 837 'In former times people did not live at peace as we do now. Because they fought frequently they never were friendly with those of other villages as they are to-day. The occasion for beginning a fight was usually a dispute over women or cattle. If a man had made love to a woman of another village he got a friend to steal her for him. Then if the "owners" of the woman saw them they told their chief that men of such and such a village had run off with "their wife". Their chief allowed all his people to go to recapture "their wife". Also those who had stolen the woman told their chief that they had a case against them, they had stolen someone's wife. Then the chief replied that they should tell everyone to be ready.'

Mwamgwanda (*old pagan man*).

628 621 672 685 'In the old days if one man A, had "eaten" the cow of another, B, living in a different chiefdom, and failed to repay it, though B came frequently to claim his cow, and if the wife of a village neighbour of A visited in B's country, B might seize her and take her to his chief, saying: "This woman is the wife of C, a neighbour of A, who has 'eaten' my cow." Then the chief sent to the chief of A's country, saying that they had caught the wife of C and they wanted the cow due from A. Then A would send the cow and B would send back the wife of C with a bull to say: "Thank you, you have settled my case." Then the husband, C, might demand a hoe as well. If A denied his debt when the message came, and asserted that B's friends had seized the woman without cause, his chief would send him to B's chief, saying: "My man denies the charge. Let them drink *umwafi*." Then A and B would take the ordeal in B's country.'

3: Mackenzie M-5 (ca. 1925) 1925
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627 783 master of ceremonies on all such occasions, a sheep, provided by the family of the murderer, is killed, and taken hold of by the parties, while the doctor divides the carcase into two parts, each side taking its share. Medicine is poured into a pot, and a red-hot spear is plunged into it. The carcase of the sheep, cooked with this medicine, is placed upon banana leaves, and the feast of reconciliation is partaken of, along with beer which also has been doctored. The reconciliation, however, is not complete until the girl has been handed over: until that is done, the feast has only stayed action on the part of the murdered man's relatives. If the murderer is not known, the relatives of the victim drink a medicine, without which, if they happened unwittingly to drink water in the culprit's house, they would themselves also die.

682 673 The murder of a pregnant woman is a very serious matter, for it is really a double murder, and the chief has to be compensated for the loss of dependents. It is more heinous to murder a woman than a man, for the woman, being dead, bears no more children, and loss to the community results.

682 672 For accidental death there are numerous regulations. If a man dies, or is killed, while in the employment of another, or on a journey with him, compensation must be paid to the relatives. There is no feast of reconciliation, for the thing was not done in malice. When a person is killed by an ox or a cow, the owner pays a cow, and kills the offending animal, lest it lead him into further trouble and expense of the same kind. If one is cutting down a tree, and some one is killed by

3: Mackenzie M-5 (ca. 1925) 1925
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its fall; or if one sends another up a tree to get fruit, or for any other purpose, and the person falls down and is killed, a cow must be paid in compensation; if he is only injured, some smaller payment is made. If I permit a suicide to take place in my house, I must pay a cow, for I ought to have taken better care of my house. If a man kills himself with my spear I come under a similar penalty, and for the same reason. If a woman suckles another woman's child and it dies, the law of compensation holds good, and a cow must be paid. Very many regulations of this kind, which it would be a weariness to repeat, exist among the Konde people.

The spear with which a murder has been committed is cut off short at the haft, and the blade bent over with a stone, and it is then hung up in the roof of the house of a relative of the murderer.

Murder is frequently committed by means of poison and by witchcraft; and in either case it is difficult to trace the criminal. As an instance: a man is very quarrelsome in his village, an intolerable nuisance in fact. After a while he goes off to work somewhere, and now is the opportunity to get rid of him. In a few months news comes that he has been killed in a quarrel; but the quarrel was brought on by witchcraft. His fellow-villagers went to a sorcerer, and persuaded him to stir up the quarrelsome one to some disagreement in his new home, which would be sure to end in his death. No British magistrate would consider a charge of murder in such a case, except against the actual murderers, but the Konde will not